

***United States Court of Appeals
for the Second Circuit***



**SUPPLEMENTAL
APPENDIX**

77-6033

IN THE UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

No. 77-6033

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Plaintiff-Appellee,

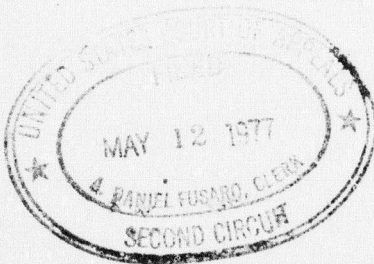
v.

AMERICAN EXPRESS COMPANY,

Defendant-Appellant.

On Appeal from an Order
of the United States District Court
for the Southern District of New York

SUPPLEMENTAL APPENDIX



ABNER W. SIBAL
General Counsel

JOSEPH T. EDDINS
Associate General Counsel

BEATRICE ROSENBERG
Assistant General Counsel

GARY T. BROWN
Attorney

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION
2401 E Street, N.W.
Washington, D.C. 20506

PAGINATION AS IN ORIGINAL COPY

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Chron

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
PHILADELPHIA REGIONAL LITIGATION CENTER
401 N. BROAD STREET
PHILADELPHIA, PENNSYLVANIA 19106

JEH/rdb

JAN 15 1974

Mr. Paul Weinberg
Manager Personnel Relations
Credit Card Division
American Express Company
770 Broadway
New York, New York

Dear Mr. Weinberg:

The United States Equal Employment Opportunity Commission is charged with the enforcement of Title VII of the Civil Rights Act of 1964, as amended by the Equal Employment Opportunity Act of 1972. The Commission has authorized the General Counsel to bring a Title VII action against American Express Company.

Enclosed is a copy of the Complaint which the General Counsel plans to file in the United States District Court for the Southern District of New York. The Commission's authorization constitutes a determination that reasonable cause exists to believe that American Express Company is engaged in each of the unlawful practices alleged in the Complaint.

Should you wish to discuss the possibility of a voluntary resolution of the suit by Consent Decree, please contact me in writing. If you have not communicated with us by January 23, 1974, we will file the Complaint.

We look forward to hearing from you.

Sincerely,

Delores Wilson
Regional Attorney

Enclosure

Appendix 3

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No.
	)	
AMERICAN EXPRESS COMPANY,	)	COMPLAINT
A New York Corporation	)	
	)	
Defendant.	)	

JURISDICTION AND VENUE

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. Section 451, 1343, and 1345. This is an action authorized and instituted pursuant to Section 706(f)(1) and (3) and (g) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. Section 2000e et seq. (Supp.II, 1972), hereinafter referred to as "Title VII."

2. The unlawful employment practices alleged below were and are now being committed within the State of New York and the Southern Judicial District of New York.

PARTIES

3. Plaintiff, Equal Employment Opportunity Commission, (hereinafter, the "Commission"), is an agency of the United States of America charged with the administration, interpretation and enforcement of Title VII and is expressly authorized to bring this action by Section 706(f)(1), 42 U.S.C. Section 2000e-5(f)(1).

4. Since at least July 2, 1965, Defendant, The American Express Company, (hereinafter, the "Company") has continuously been and is now a New York corporation, doing business in the State of New York and City of New York, where it is engaged in the business of providing credit and travel services to persons throughout the country and has continuously and does now employ more than twenty-five employees.

5. Since at least July 2, 1965, the Company has continuously been and is now an employer engaged in an industry affecting commerce within the meaning of Section 701(b), (g) and (h) of Title VII, 42 U.S.C. Section 2000e-(b), (g) and (h).

STATEMENT OF CLAIM

6. More than thirty (30) days prior to the institution of this action, charges were filed with the Commission alleging that the Company had engaged in unlawful employment practices under Title VII.

7. The Commission, after investigating and finding reasonable cause to believe that Defendant had engaged in unlawful employment practices, has been unable, through informal methods of conference, conciliation and persuasion, to secure a conciliation agreement acceptable to it.

8. Since July 2, 1965, and continuously up until the present time the Company has intentionally engaged in unlawful employment practices at its New York City facilities in violation of Section 703(a) of Title VII by discriminating against Blacks because of their race and national origin, including, but not limited to:

A. The limitation, segregation, and classification of Black employees and Black applicants for employment because of their race and national origin.

B. The maintenance of discriminatory recruitment and hiring practices and policies, customs and usages, including but not limited to reliance upon word-of-mouth recruitment, and requirement that applicants for employment answer arrest inquiries and wage garnishment inquiries.

C. The continuous maintenance of policies and practices with respect to discharge which result in a disproportionately

High number of Blacks being terminated because of their race and national origin.

D. The continuous maintenance of policies and practices which impose limitations on Blacks because of their race and national origin as to more desirable, higher paying positions, such as supervisory or managerial categories.

9. The effect of the policies and practices complained of in paragraph eight above, has been to deprive Black applicants and employees because of their race and national origin of equal job opportunities and otherwise to adversely affect their status as employees and prospective employees because of their race and because of their race and nationality.

PRAYER FOR RELIEF

WHEREFORE, The Commission respectfully prays that this Court:

A. Grant a permanent injunction enjoining Defendant, its officers, agents, employees, successors, assigns and all persons in active concert or participation with it, from engaging in any employment practice which discriminates because of race and nationality.

B. Order Defendant to institute and carry out policies, practices and affirmative action programs which provide equal employment opportunities for Blacks and which eradicate the effects of Defendant's past and present unlawful employment practices.

C. Order Defendant to make whole those persons adversely affected by the unlawful employment practices described above, by providing appropriate back pay, with interest, in an amount to be proved at trial and other affirmative relief necessary to eradicate the effects of Defendant's unlawful employment practices.

UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
WASHINGTON, D. C.

TO: DIRECTOR, BUREAU OF LAND MANAGEMENT
FROM: SAC, [illegible]
SUBJECT: [illegible]

RE: [illegible]
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March 1, 1974

RE: YDC3-275 Mary A. Reese vs.
American Express Company

CERTIFIED
RETURN RECEIPT REQUESTED

Ms. Pat LeCraver
Manager, Affirmative Action Planning
American Express Company
Personnel Office
65 Broadway
New York, New York 10006

Dear Ms. LeCraver:

This is to advise you that we are concluding the Conciliation effort in the above styled case and proceeding under Section 1501.25 of the Commission's Procedural Regulations.

Further, this will confirm our understanding that this matter cannot be resolved for the following reasons:

1. Counter proposal doesn't deal with the issue of garnishment to the satisfaction of the Commission.
2. Also doesn't deal with the issue of Maternity Leave to the satisfaction of the Commission.
3. Counter offer of back-pay is regarded as insufficient.

We regret that we were unable to successfully resolve this matter through the conciliation process.

Very truly yours,

1
Frankwell O. Phillips
Acting Director
Washington District Office

Appendix 4

AMERICAN EXPRESS

AMERICAN EXPRESS COMPANY, 65 BROADWAY, NEW YORK, N.Y. 10046

March 11, 1974

CERTIFIED

RETURN RECEIPT REQUESTED

Mr. Treadwell O. Phillips
Acting Director
Equal Employment Opportunity Commission
Washington District Office
1717 K Street N. W.
Washington, D. C. 20006

Re: YDC 3-275 Mary A. Reese vs.
American Express Company

Dear Mr. Phillips:

Reference is made to your letter of March 1, 1974, advising me that the Washington District Office of the Equal Employment Opportunity Commission is concluding conciliation efforts in the above mentioned case and proceeding under section 1601-25 of the Commission's Procedural Regulations.

American Express Company considers itself most willing to conciliate in all matters in this case, and, particularly with regard to the maternity matter, we were under the impression that there had been a meeting of the minds between ourselves and those people with the Commission in the Washington District Office with whom we consulted on this particular matter.

On October 15, 1973, Mr. David Palmer wrote to me suggesting that I contact Ms. Dolores Wilson at the Philadelphia Regional Litigation Center. This letter followed one from you dated September 18, 1973, which stated, as in your letter of March 1, 1974, that you were proceeding under section 1601.25. It was my understanding that once this procedure was initiated by the Commission, despite our willingness to have further discussions with the Commission, we would have no further opportunity to do so, particularly in a view of the fact that the case was now in the hands of the Regional Litigation Center.

Appendix 5

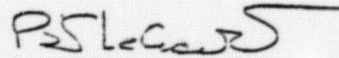
-2-

Re: YDC 3-275 Mary A. Reese vs.
American Express Company

If my understanding of these procedures is erroneous, I would greatly appreciate your letting me know what procedures I should follow in order to pursue American Express Company's attempt to conciliate this case.

Thank you very much for your cooperation.

Sincerely,



(Mrs.) Pat Le Craver
Manager - Affirmative Action Planning

PLC/im

Mrs. Pat La Craver
Manager - Affirmative Action Planning
Personnel Office
American Express Company
65 Broadway
New York, N. Y. 10006

Re: Reese v. American Express Co., Conn. Case No. YDC3-275
Ferrall v. American Express Co., Conn. Case No. ZNY3-043

Dear Mrs. La Craver:

This office recently received your letter of March 11, 1974 concerning the Reese case from our Washington District Office. That letter indicates a willingness on the part of the American Express Company to conciliate the issues raised by that case. Although the file was sent here because conciliation had failed, we are willing to return the file to the Washington District Office to resume conciliation efforts if your position on the issues has changed since the conciliation agreement you proposed in August 1973, which was rejected by the District Office.

When I last spoke with you in New York on March 23, concerning the Ferrall case, I promised to provide you with the source of our statistical information. We used the 1970 Census of Population, General Social and Economic Characteristics of New York for labor force information and the 1970 Census of Population, Detailed Characteristics of New York for available labor force, both persons employed and available for employment, by job titles. I hope that this information is of assistance to you. However, should you have any additional questions, do not hesitate to contact me.

Sincerely,

Joseph L. Savin
Assistant General Attorney

cc: Robert W. Hunter, Esq.

Appendix 6

November 27, 1974

Rita Berkowitz, Esquire
Office of General Counsel
American Express Company
65 Broadway, 14th Floor
New York, New York 10006

Re: EEOC v. American Express Company

Dear Rita:

In accordance with our telephone conversation of Tuesday, November 26, 1974, you will find attached a copy of the revised Complaint in this matter.

Sincerely,

JUDITH E. HARRIS
Assistant Regional Attorney

Enclosure

Appendix B

BEST COPY AVAILABLE

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Plaintiff,

v.

AMERICAN EXPRESS COMPANY,
a New York Corporation,

Defendant.

CIVIL ACTION NO. _____

JURISDICTION AND VENUE

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. Sections 451, 1343, and 1345. This is an action authorized and instituted pursuant to Section 706(f)(1) and (3) and (g) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. Section 2000e et seq. (Supp. II, 1972), hereinafter referred to as "Title VII."

2. The unlawful employment practices alleged below were and are now being committed within the State of New York and the Southern Judicial District of New York.

PARTIES

3. Plaintiff, Equal Employment Opportunity Commission, (hereinafter, the "Commission"), is an agency of the United States of America charged with the administration, interpretation and enforcement of Title VII and is expressly authorized to bring this action by Section 706(f)(1), 42 U.S.C. Section 2000e-5(f)(1).

4. Since at least July 2, 1965, Defendant, the American Express Company, (hereinafter, the "Company") has continuously been and is now a New York corporation, doing business in the State of New York and City of New York, where it is engaged in the business of providing credit and travel service to persons throughout the country and has continuously and does now employ more than twenty-five employees.

5. Since at least July 2, 1965, the Company has continuously been and is now an employer engaged in an industry affecting commerce within the meaning of Section 701(b), (g) and (h) of Title VII, 42 U.S.C. Section 2000e-(b), (g) and (h).

STATEMENT OF CLAIM

6. More than thirty (30) days prior to the institution of this lawsuit, persons claiming to be aggrieved filed charges with the Equal Employment Opportunity Commission alleging violations of Title VII by the Defendant. All conditions precedent to the institution of this lawsuit have been fulfilled.

7. Since July 2, 1965, and continuously up until the present time the Company has intentionally engaged in unlawful employment practices at its New York City and Washington, D.C. facilities in violation of Section 703(a) of Title VII by discriminating against Blacks because of their race and national origin, and women because of their sex, including, but not limited to:

A. The limitation, segregation and classification of Black employees and Black applicants for employment because of their race and national origin.

B. The maintenance of discriminatory recruitment and hiring practices and policies, customs and usages, including but not limited to reliance upon word-of-mouth recruitment, and requirement that applicants for employment answer arrest inquiries and wage garnishment inquiries.

C. The continuous maintenance of policies and practices with respect to discharge which result in a disproportionately high number of Blacks being terminated because of their race and national origin.

D. The continuous maintenance of policies and practices which impose limitations on Blacks because of their race and national origin as to more desirable, higher paying positions, such as supervisory or managerial categories.

E. The maintenance of policies and practices concerning maternity leave and benefits which adversely affect female employees because of their sex.

8. The effect of the policies and practices complained of in Paragraph seven above, has been to deprive Black applicants and employees because of their race and national origin and female employees because of their sex of equal job opportunities and otherwise to adversely affect their status as employees and prospective employees because of their race, sex, and national origin.

PRAYER FOR RELIEF

WHEREFORE, the Commission respectfully prays that this Court:

A. Grant a permanent injunction enjoining Defendant, its officers, agents, employees, successors, assigns and all persons in active concert or participation with it, from engaging in any employment practices which discriminate because of race, sex and nationality.

B. Order Defendant to institute and carry out policies, practices and affirmative action programs which provide equal employment opportunities for Blacks and females and which eradicate the effects of Defendant's past and present unlawful employment practices.

C. Order Defendant to make whole those persons adversely affected by the unlawful employment practices described above, by providing appropriate back pay, with interest, in an amount to be proved at trial and other affirmative relief necessary to eradicate the effects of Defendant's unlawful employment practices.

D. Grant such further relief as the Court deems necessary and proper.

E. Award the Commission its costs in this action.

WILLIAM A. CAREY
General Counsel

WILLIAM L. ROBINSON
Associate General Counsel

RONALD COPELAND
Regional Counsel
New York Regional Office
26 Federal Plaza - Rm. 4000
New York, New York 10007

DELORES WILSON
Regional Attorney

DONA KAHN
Associate Regional Attorney

JUDITH E. HARRIS
Assistant Regional Attorney

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Philadelphia Regional Litigation Center
401 N. Broad Street - Suite 1061
Philadelphia, Pennsylvania 19108
(215) 597-0880

UNITED STATES DISTRICT COURT
FOR THE
SOUTHERN DISTRICT OF NEW YORK

EQUAL EMPLOYMENT OPPORTUNITY)
COMMISSION,)
)
Plaintiff,)
)
v.) 76 Civ. 365 (GLG)
)
AMERICAN EXPRESS COMPANY,)
)
Defendant.)

AFFIDAVIT

COMMONWEALTH OF PENNSYLVANIA)
) ss.
CITY OF PHILADELPHIA)

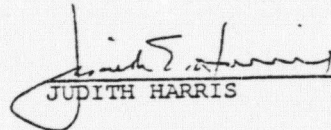
JUDITH HARRIS, being duly sworn, deposes and says:

I was employed by the Equal Employment Opportunity Commission from April 2, 1973 to April 3, 1976 as a trial attorney in the Commission's Philadelphia Office of General Counsel (Litigation Center). I was assigned to represent the Commission in the above-captioned case against American Express from the time that it was reviewed for litigation to the time the Commission's complaint was filed.

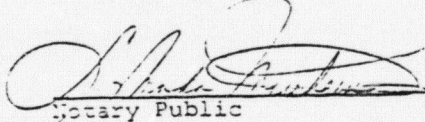
On December 3, 1973, the Commission approved the filing of a complaint against American Express based on information from the charge filed by Clarence Ferrell, investigation of that charge, Commission determination and failure of conciliation. On January 15, 1974, prior to the filing of the complaint, a letter and a copy of the complaint were mailed to American Express offering to negotiate toward a consent decree. Counsel for American Express responded that they wished to negotiate toward settlement and negotiations continued until the complaint

was filed in January, 1976. During the course of negotiations, attorneys for American Express, Morton Maneker and Rita Berkowitz, indicated that they wished to include the case which resulted from a charge filed by Mary Reese in the negotiations. An amended complaint as drafted to include relief sought based on the Commission investigation of the Mary Reese charge. That complaint was also delivered to attorneys for American Express and negotiations included all of the allegations contained in the complaint.

At no time during the negotiations did any representative of American Express suggest that the complaint should be filed or that negotiations be discontinued. Rather, on numerous occasions, I expressed the opinion that negotiations were not succeeding and that I intended to file the complaint. On each occasion, Mr. Maneker or Rita Berkowitz indicated that he or she thought an agreement was possible and requested that I delay the filing of the complaint.


JUDITH HARRIS

Subscribed and sworn to
before me on this 27th day
of June, 1976.


Notary Public

LORNA DA MATTEO
Notary Public, Philadelphia, Pa. - 19106 Co.
My Commission Expires July 2, 1979